

MATTHEW L. SEROR (SBN: 235043)
mseror@buchalter.com
BUCHALTER
A Professional Corporation
18400 Von Karman Avenue, Suite 800
Irvine, CA 92612-0514
Telephone: (213) 891-0700
Facsimile: (213) 896-0400

STEPHEN J. STRAUSS (SBN: 110030)
sstrauss@buchalter.com
BUCHALTER NEMER
A Professional Corporation
1000 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90017-2457
Telephone: (213) 891-0700
Facsimile: (213) 896-0400

Attorneys for Plaintiff
YOBİ VENTURES LLC _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

YOBİ VENTURES LLC,
a Delaware limited liability company,

Plaintiff,

vs.

YİB INC., a Delaware corporation,

Defendant.

**COMPLAINT FOR
DECLARATORY RELIEF
DEMAND FOR JURY TRIAL**

Plaintiff Yobi Ventures LLC (“Yobi” or “Plaintiff”), by and through its attorneys, brings this action and alleges against defendant Yib Inc. (“YiB” or “Defendant”), as follows:

THE PARTIES

1
2 1. Plaintiff is a Delaware limited liability company with a principal place
3 of business located in New York, New York.

4 2. Plaintiff is informed and believes, and on that basis alleges, that
5 Defendant Yib Inc. is a corporation organized and existing under the laws of the
6 state of Delaware, with its principal place of business at 15166 Los Gatos Blvd.,
7 Los Gatos, California 95032.

JURISDICTION AND VENUE

8
9 3. This Court has subject matter jurisdiction over this matter pursuant to
10 the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; 28 U.S.C. §§ 1331 and
11 1338 and 15 U.S.C. § 1121, *et seq.* insofar as the claims alleged herein arise under
12 The Lanham Act.

13 4. This Court has personal jurisdiction over Defendant insofar as
14 Defendant maintains its principle place of business within this judicial district.

15 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391
16 because a substantial part of the events giving rise to the claims alleged herein
17 occurred in this judicial district.

COUNT I

Declaratory Judgment of No Trademark Infringement

18
19
20 6. Plaintiff repeats and incorporates by reference the allegations set forth
21 in paragraphs 1 through 5 as though fully set forth herein.

22 7. Plaintiff is a data aggregation and analytics company which uses the
23 latest in artificial intelligence advances to make vast quantities of ethically sourced
24 consumer data available to businesses of all sizes to predict future events. Plaintiff
25 offers its services under the name YOBI and has been doing so since at least as
26 early as 2019.

27 8. Plaintiff is informed and believes, and on that basis alleges, that
28 Defendant is a telecommunications company which aims to streamline consumer

1 communications and interactions through the use of various tools and programs,
 2 some of which use artificial intelligence technologies. Plaintiff is informed and
 3 believes, and on that basis alleges, that Defendant offers its services under the name
 4 YOBI.

5 9. On or about August 22, 2023, Defendant, through counsel, sent
 6 Plaintiff a letter within which it alleged that Defendant was the senior user of the
 7 YOBI mark and that Plaintiff's use of YOBI infringed upon Defendant's rights. In
 8 addition to common law rights, Defendant's letter asserted that Defendant owned a
 9 United States Trademark Registration (Reg. No. 6,426,768) in its YOBI mark.

10 10. Among other allegations contained in Defendant's letter, Defendant
 11 claimed that:

12 (a) it had "nationwide, exclusive rights" in the YOBI mark;

13 (b) Plaintiff's use of the term YOBI infringed upon the rights of
 14 Defendant and was "likely to cause confusion, or to cause mistake, or to deceive
 15 consumers as to the source, sponsorship or affiliation with [Defendant] and its
 16 YOBI branded services" pursuant to 15 U.S.C. § 1125(a);

17 (c) "*every single* likelihood of confusion factor favors a finding of
 18 confusion and thus infringement of [Defendant's] trademark"¹;

19 (d) Plaintiff's "use of the Infringing Marks not only creates
 20 confusion, but it also unfairly trades on the valuable goodwill in the YOBI mark."

21 (e) Plaintiff's conduct could "warrant a finding of willful
 22 infringement;" and

23 (f) a finding "willful infringement" could increase "the potential
 24 damages award by three times should a court find trademark infringement (which is
 25 highly probable [...])"

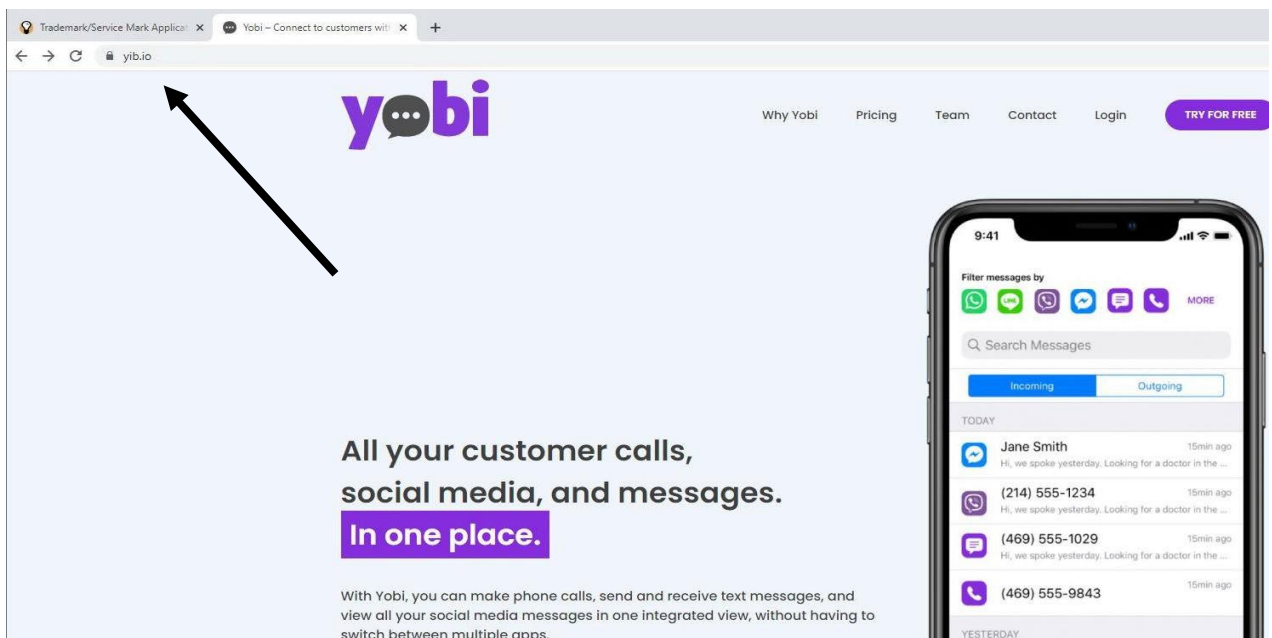
26
 27 ¹ Defendant's letter includes a factor-by-factor legal analysis of the applicable
 28 likelihood of confusion factors and asserts that each one favors Defendant's
 infringement claim.

11. Defendant's August 22, 2023 letter demands that Plaintiff "immediately cease and desist from the use of, or intent –to-use, the Infringing Mark" and reserves all of Defendant's rights, remedies and claims against Plaintiff.

12. While Defendant's August 22, 2023 letter made sweeping allegations as to Plaintiff's alleged infringement of Defendant's rights, it failed to include any evidence that supports Defendant's contention that it is the senior user of the YOBI mark. In fact, upon investigating the claims alleged in Defendant's letter, it became apparent that Defendant's first use of YOBI **post-dated** Plaintiff's use, thereby making Plaintiff the senior user of the mark, not Defendant.

13. More specifically, Plaintiff's investigation into Defendant's alleged first use of its purported YOBI mark revealed that while Defendant may have been using the term YIB in 2018 (Defendant YIB Inc. was formed in 2018), it did not begin using the term YOBI until 2020, *after* Plaintiff's first use.

14. For example, Defendant's trademark application for its purported YOBI mark references a 2018 date of first use. The specimen provided to the trademark office in support of the application (uploaded on October 28, 2020) reflects the use of YOBI on the yib.io website:



15. But Plaintiff's investigation revealed that the earliest iteration of the [www.yib.io](https://yib.io) website existed on October 28, 2018 (with no content on the page), with the first use of YOBI on that website not occurring until August 12, 2020:

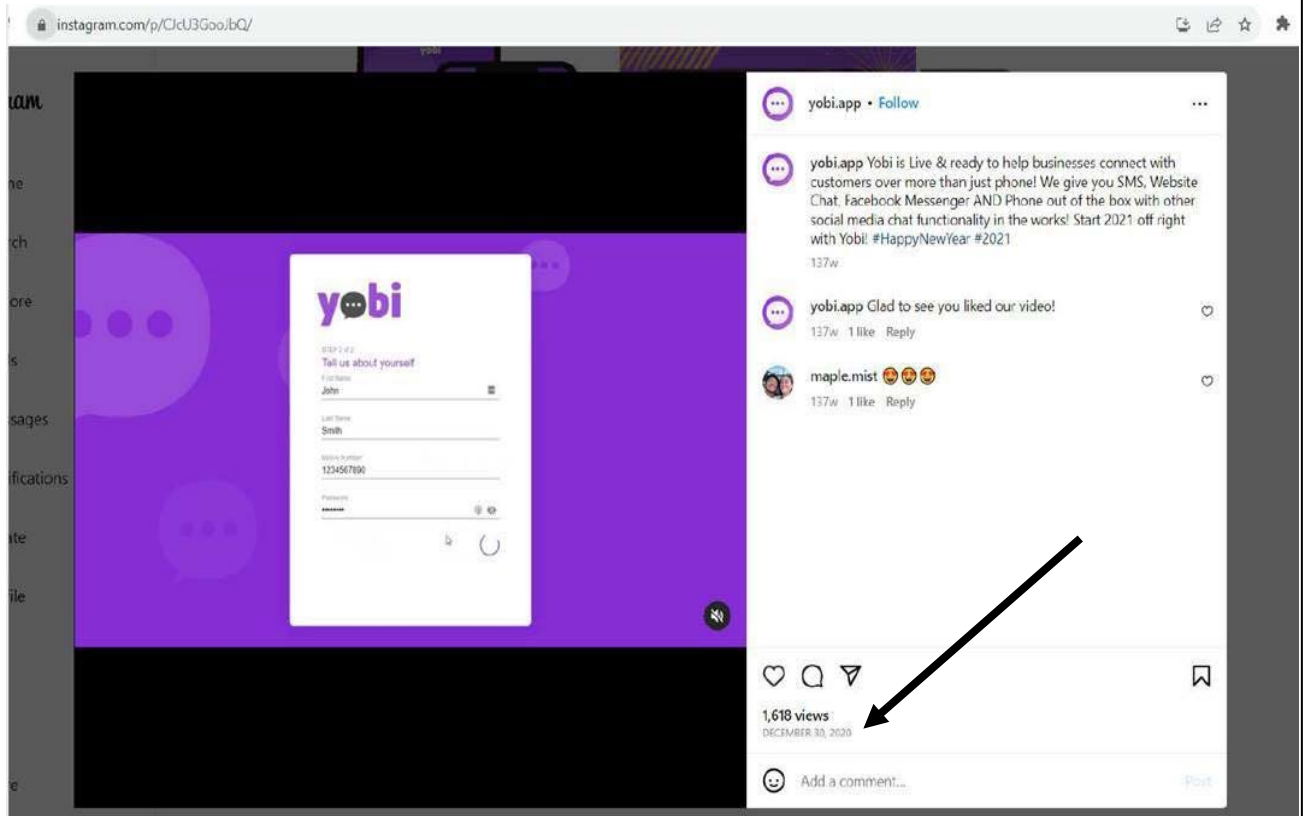


All your customer calls,
social media, and messages.
In one place.

With Yobi, you can make phone calls, send and receive text messages, and view all your social media messages in one integrated view, without having to switch between multiple apps.

home-ios

16. Similarly, Plaintiff is informed and believes, and on that basis alleges, that Defendant did not use YOBI on its Instagram page until December 30, 2020:

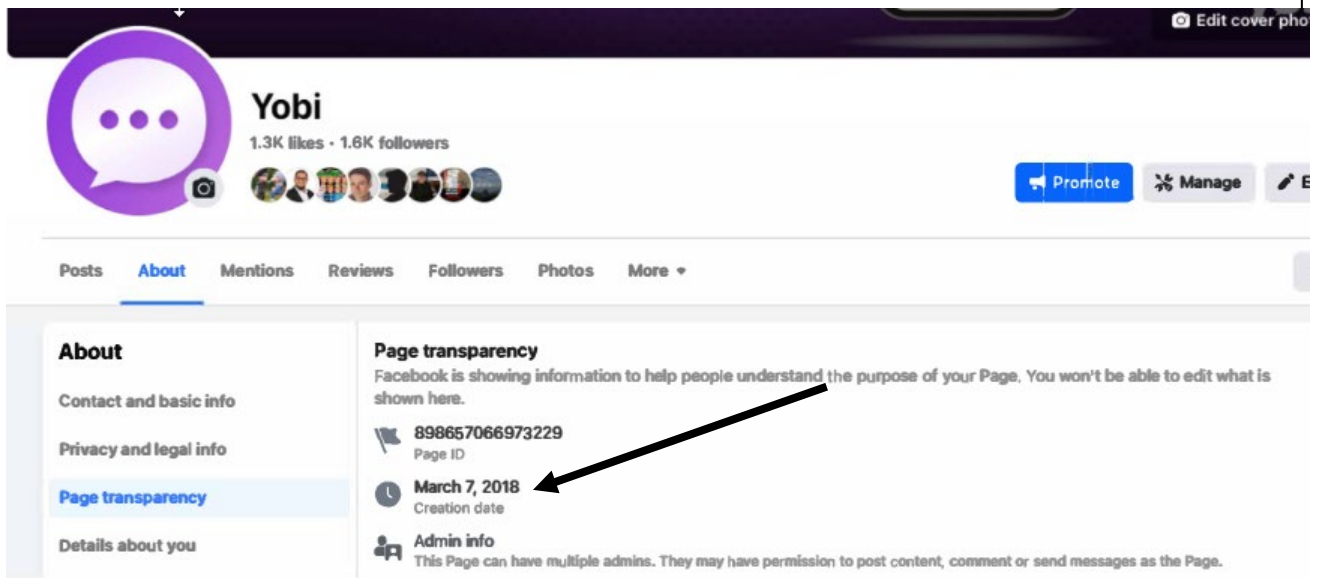


17. Plaintiff is informed and believes, and on that basis alleges, that Defendant did not use YOBİ on other social media platforms (such as Twitter) until April 2021.

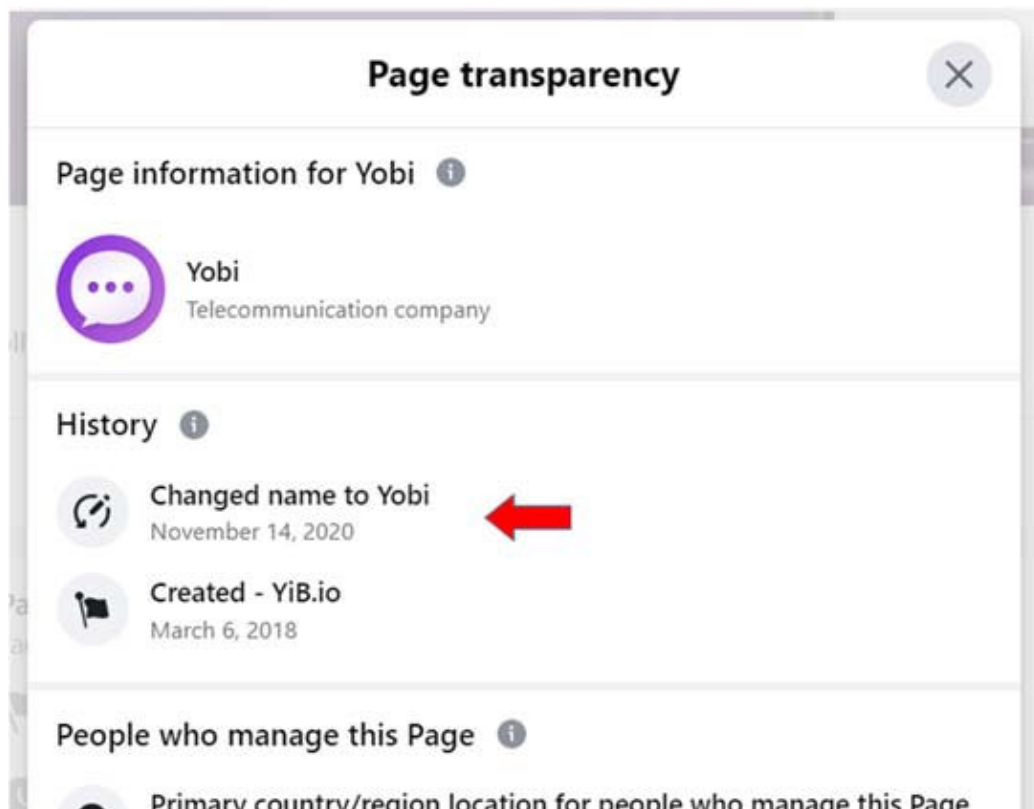
18. Plaintiff is informed and believes, and on that basis alleges, that Defendant did not register the www.yobi.app domain until February 22, 2022.

19. The foregoing support a finding that Plaintiff's use of YOBİ pre-dates Defendant's purported usage of YOBİ.

20. While scant, even the evidence Defendant did provide in an attempt to establish itself as the senior user failed to support Defendant's assertion that it began using YOBİ in 2018. For example, Defendant provided Plaintiff with its Facebook "page transparency" report, which references that Defendant's Facebook page was created in March of 2018:



21. But the screengrab provided by Defendant was incomplete. The full Facebook page transparency report (which is publicly available) reflects that while the page was created in March of 2018, it was created as “Yib.io” and that the page changed its name to Yobi on November 14, 2020:



1 22. Given Plaintiff's investigations, Plaintiff is informed and believes that
2 Plaintiff's use of YOBI pre-dates Defendant's use, making Plaintiff the senior user
3 of the YOBI mark. Despite repeated requests, Defendant has refused to provide
4 any proof of its use of YOBI such as to make Defendant the senior user.

5 23. Plaintiff is informed and believes, and on that basis alleges, that as the
6 senior user, Plaintiff has superior rights to the term YOBI.

7 24. An actual and justiciable controversy has arisen and now exists
8 between Plaintiff and Defendant as to who is the senior user of the term YOBI.

9 25. In light of the facts alleged herein, Defendant's allegations that it has
10 senior rights to the term YOBI and that Plaintiff's use is infringing, coupled with
11 Defendant's threats of anticipated litigation stemming from Plaintiff's use of YOBI,
12 the dispute between Plaintiff and Defendant is definite, immediate and substantial.

13 26. Defendant's allegations have caused uncertainty regarding the
14 trademark rights of Plaintiff and Defendant and whether Plaintiff's use of YOBI
15 infringes upon Defendant's rights (if any).

16 27. By this Complaint, Plaintiff seeks a declaratory judgment pursuant to
17 28 U.S.C. § 2201(a) that it is the senior user of YOBI and that its use of YOBI does
18 not infringe upon the rights of Defendant.

19 28. Plaintiff is entitled to a declaratory judgment of its rights under
20 28 U.S.C. § 2201 in order to resolve the dispute existing between the parties and
21 afford relief from the uncertainty and harm that Defendant's allegations have
22 caused.

23 **PRAYER FOR RELIEF**

24 Therefore, Plaintiff prays for declaratory judgment against Defendant that:

25 A. Plaintiff is the senior user of YOBI and that its rights in YOBI are
26 superior to those of Defendant, if any;

27 B. Such other relief as this Court deems just and proper.
28

BUCHALTER
A Professional Corporation

MATTHEW L. SEROR
Attorneys for Plaintiff
YOBİ VENTURES LLC

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues in the Complaint that are triable by jury.

Dated: June 19, 2024

BUCHALTER
A Professional Corporation

By: /s/ Matthew L. Seror

MATTHEW L. SEROR
Attorneys for Plaintiff
YOBİ VENTURES LLC